

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/23/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000231

FILED: _____

STATE OF ARIZONA

PAUL W BADALUCCO

v.

JOHN D MCDOWELL

JOHN D MCDOWELL
701 S DOBSON RD #194
MESA AZ 85202-0000

FINANCIAL SERVICES-CCC
PHX CITY MUNICIPAL COURT
REMAND DESK CR-CCC

MINUTE ENTRY

PHOENIX CITY COURT

Cit. No. #270375801

Charge: DISABLED PARKING

DOB: 02/02/26

DOC: 03/05/02

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

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This matter has been under advisement and this Court has considered and reviewed the record of the proceedings from the Phoenix City Court, the exhibits made of record, and the Memorandum submitted by the Appellant.

Appellant, John D. McDowell, was charged with a Disabled Parking violation, in violation of Phoenix City Code Section 36-149(A), in Phoenix Arizona on March 5, 2002. Appellant requested a trial which was held on April 19, 2002. At the trial, Appellant testified that he is disabled and explained to the judge that he did not have a permanent license plate issued to the disabled, but he did have a placard that hangs in the rear-view mirror that was issued by the Department of Motor Vehicles to enable him to park in disabled spaces. The State's witness testified that the placard utilized by the Appellant was no longer "legal." The State's witness testified that he did observe the disabled placard hanging from the rear-view mirror within Appellant's vehicle. The exhibits (photographs) reflect this placard hanging from Appellant's rear-view mirror and displayed prominently.

The State's witness is incorrect when he informed the trial judge that placards are no longer utilized by the Department of Motor Vehicles. A.R.S. Section 28-884(A) permits persons who are disabled to park in the specially designated disabled persons parking places if their vehicle displays special access license plates or "...the valid permanently disabled or temporarily disabled removable windshield placard (emphasis added)." Clearly, Appellant's vehicle was displaying the permanently disabled removable windshield placard. Appellant was entitled to park in the disabled space and the trial judge erred in finding him responsible for this violation.

IT IS THEREFORE ORDERED vacating Appellant's conviction and the sentence/sanction imposed by the trial judge.

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IT IS FURTHER ORDERED dismissing the charge in this case and ordering the Clerk of this Court and the Clerk of the Phoenix City Court to refund any fine and/or appeal bond posted by Appellant in this case.

October 22, 2002

/S/ HONORABLE MICHAEL D. JONES

JUDICIAL OFFICER OF THE SUPERIOR COURT